1941

File No. B Census/41

Legal **DEPARTMENT**

B **BRANCH**

Subject:—

Governors Bill No. III of 1941.

A Bill to provide for Contribution by local authorities to census expenses.

Bom III of 1941

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Std. Sectt. Slip 24 B a.

503-B

~~Bom Act III of 1941~~

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S.C.
26th April 1956

R.I.No. 10877
16-12-40

U.R.from G.D. dated the 18th Dec. 1940 re:-A bill to provide for contributions by certain local authorities of a portion of the expenses incurred or to be incurred in connection with the forthcoming census.

Submitted.

S.S.

The R.L.A. is requested to draft a Bill on the lines of the Bengal Bill providing for the contribution by municipalities and district local boards towards census expenses.

2. The requisite draft Bill is appended for approval.

3. Para.4 of G.D. note at p.107.- it is true that the taking of census is one of the discretionary duties of a municipality. However, "census" has not been specifically mentioned either in the obligatory duties or the discretionary duties of a local board under sect. 50 of the Bombay Local Boards Act, 1923. It is therefore necessary to provide that notwithstanding anything contained in the Bombay Local Boards Act, the District Local Board may spend any sum not exceeding Rs. 200/- to meet the expenses incurred in connection with the taking of the census in the district.

S.C.

ne second sub-para. of para.(1)
of C.R.,P.& 3.D.No. 3381/34 dated 29th
November 1940 at p.89 provides that in the
event p of the Municipal Corporation of the
City of Bombay or the Ahmadabad Borough
Muny. beingrequired to engage special
staff for census work, the number to be
employed and the remuneration to be paid
to this special staff should be fixed in
consultationwith the Superintendent of
Census Operations,Bombay. Attention is,
in this connection, invited to sections
78 79 et seq of the City of Bombay Munl. Act
1888 and sections 58(c) and 59 of the Bom.
Munl. Borough Act, 1925 and the Ahmadabad Muny.
shall fix the number of special staff to
be employed and the remunerx remuneration
to be paid to them in consultation with
the Supdt. of Census Operations. The necessary
x provision has been made in clause 5 of the
ill.

(It is therefore necessary to provide that the Bom. Munl. corp.)

5. The subject matter of the Bill falls
under entry 13 in the Provincial Legislative list.
The Bill requires the previous approval of the
Governor General before enactment, under
executive instructions. As it does not
relate to any entry in the Concurrent
legislative List, it does not require to
be reserved for consideration of the Governor
General with reference to section 107(2) of
the Government of India Act, 1935

C.

-The necessary draft Bill is appended.

2. The Bill requires the ~~xxxx~~ local authorities in the Province to contribute for the expenditure in connection with "census" a matter falling in the Federal Legislative List of the Government of India Act (see entry 16). The question regarding the power of the Provincial Legislatixure to provide by Legislation that local authorities shall contribute ~~xx xxxxxx xx~~ towards the expenses of the "census" which is a Federal subject, is not free from doubt. But the question seems to have been considered by the Government of India and that Government has held that the Provincial Legislature has such power. (see paragraph 2 of the Government of India Letter at page 11 ante and paragraph 3 of the letter of the Provincial Superintendent of Census at para 5(a). The ~~Bengal~~ Bengal Government seems to have ~~x~~ also taken the same view.

3. Clause 4 of the draft Bill provides for recovery of contrinution from the local authorities who refuse to pay the amount charged on their funds. There is no such provision in the Bengal Bill. The Political and Services Department should consider whether the provision should be retained in the Bill.

4. The subject matter of the Bill falls under entry 13 in the Provincial Legislative List. The Bill requires the previous approval of the Governor General before enactment, under executive instructions. Clause 4 of the Bill provides that if any a local authority refuses to pay the contribution it can be recovered from its funds. Under ~~xxxxx~~ various statutes which are in force in this Province, it is provided that a bank with which any funds of a local authority may be deposited shall pay the amount due to the local authority concerned out of such funds and such payment will be a sufficient discharge to such bank inregard to its liability towards the local authority. It may perhaps be ~~xxxx~~ contended that this clause affects the existing law of contracts. It will, therefore be desirable to reserve the Bill for the consideration of the Governor General under section 107(2) of the Government of India Act, 1935.

6. India Act,1935.

5. As the Act will be made by the Governor; no Statement of Objects and Reasons is necessary.

Remembrancer of Legal Affairs,

U.R. to P. & S.D. NO. 11278 dated the 23rd December 1940.

S.C.

25th April 1956.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context

(1) "census" means the census to be taken in British India during the year 1941

(2) "district" means any area over which a district local board has authority under the Bombay Local Boards Act, 1923; Bom. VI of 1923. and

(3) "prescribed" means prescribed by rules made under this Act.

J. C.
26th April 1866.

Contributions by municipalities and district local boards.

3(1) Notwithstanding anything contained in any law under which any municipality or district local board is constituted or established, the Provincial Government may direct that such portion as may be prescribed of the expenses incurred, whether before or after the commencement of this Act, in connection with the taking of the census within the limits of any municipality or district shall be charged to the funds of such municipality or to the local fund of such district.

Provided that the portion of such expenses which may be charged to the funds of the Municipal Corporation of the City of Bombay or of the Ahmedabad Borough Municipality shall not exceed one half:

Provided further that the portion of such expenses which may be charged to the local fund of any district shall not exceed an amount calculated at Rs.200/- for each taluka or mahal within such district.

(2) the sum directed to be charged under sub-section (1) shall be computed and paid in the prescribed manner.

Recovery of contribution in default of payment by Municipality or District Local Board

4(1). If any sum directed to be charged under section 3 is not paid by any Municipality or District Local Board the Provincial Government may, notwithstanding any law relating to the funds vesting in such Municipality or District Local board or any other law for the time being in force, direct any bank in which any monies of the Municipality or the District Local Board are deposited or the person incharge of the Government Treasury or of any other place of security in which the monies of the Municipality or the District Local Board are deposited to pay such sum from such monies as may be standing to the credit of the Municipality or the District Local Board in such bank or as may be in the hands of such person or as may, from time to time be received from or on behalf of the Municipality or the District Board by way of deposit by such bank or person; and such bank or person shall be bound to obey such order.

(2) Every payment made in pursuance of an order under sub-section (1) shall be a sufficient discharge to such bank or person from all liability to the Municipality or District Local Board as the case may be in respect or any sum so paid by it or him out of the monies of the Municipality or District Local Board so deposited with such bank or person.

Office of the R.L. A.

Clause 2 of the Bill at pages 113-121 ante provides for charging of a portion of the expenses incurred in inconnection with the taking of the census to the funds of local authority. A local authority may, however, refuse to pay the amount so charged and clause 4 was therefore inserted in the Bill in order to provide for the speedy recovery of such amounts. The provision is x on the lines of the provision i sectio n 23 (2) of the Bombay Finance Act, 1932. It is true that there are provisions similar to this provision in the Bombay Acts relating to local bodies (see section 178(3) of the Bombay District Municipal Act, 1901; section 127(3) of the Bombay ~~District Municipal~~ Local Boards Act 1923 and section 218(3) of the Bombay Municipal Boroughs Act, 1925). But these provisions provide for recovery of the amounts of the expenses and remuneration incurred in connection with the executionof the duties of the local authorities which the local authorities fail to perform. it is was considered doubtful whether these provisions could be availed of for the recovery of the dues such as the expenses incurred in connection with the taking of the census. clause 4 was inserted in the draft Bill.

2. The Bengal Municipal Act, 1932, contains provisions similar to the provisions of the Bombay Acts relating to local authorities referred to above. (see section 649(2) of the Bengal Municipal Act, 1932). There is no special provision in the Bengal Act providing for recovery of amounts of expenses such as these incurred in connection with the taking of the census.

3. In view of ~~xxx~~ paragraph 2 of the Secretary to the Governor's note at page 137 ante, it would perhaps be advisable to omit clause 4. The Bill will not then have to be reserved for the consideration of the Governor General under section

107(2) of the Government of India Act, 1935. If later on it is found necessary, clause 4 can be enacted by a separate amending Act.

Remembrancer of Legal Affairs.

U.O. to P & S.D. No. 26 Confl., dated the 19th February 1941.

P.C.
28th April 1886.

acts.
Publication of the Bombay Local Authorities Census Expenses Contribution Act, 1941.

GIVERNMENT OF BOMBAY
Legal Department.
Resolution No.2250
Bombay Castle, March 1941.

Letter to the Secretary to the Governor, No. 2037, dated the 7th March 1941.

Letter from the Secretary to the Governor, No.201(27), dated the 19th March 1941.

"With reference to your letter No.2037, dated the 7th March 1941, forwarding a copy of a Bill to provide for contribution by Local authorities to census expenses prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, I am directed to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

2. The copy of the Bill is returned herewith with His Excellency the Governor's assent signified therein.

RESOLUTION.- The Law should be published as Bombay Act No.III of 1941, in the Bombay Government Gazette dated the 12th March 1941.

2. The act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devna gari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Political and Services Department with reference to the Memorandum from that Department dated the 8th March 1941.

By order of the Governor of Bombay.

P.N. MOOS,
for Secretary to Government

The Manager, Government Central Press, Bombay, (with a copy of the Act and with arequest that 15 Gazette copies of the -Act may be forwarded to the Legal Department.
The Political and Services Department.)
* The Oriental Translator to Government) With a
The Secretary to the Bombay Legislative Council.) copy
The Secretary to the Bombay Legislative Assembly.) the Ac

* With five extra copies of the Act-

Sx Submitted with reference to para. 4. of the office note dated 11th instant.

2. The Bombay Local authorities census expenses Contribution Act has been published in the Bombay Government Gazette, dated 12th instant . The P & S.D. papers may now be returned to that Deptt. with a draft notification under section 92(1) of the Government of India Act, 1935 for applying the Act to the partially excluded areas in this Province.

3. Draft is put up for approval and signature.

Legal Department.

The Bombay Local Authorities Census Expenses Contribution Bill has received the assent of the Governor on the 10th March 1941 and it ~~xxx~~ has been published as Bombay Act, No. III of 1941 in the Bombay Government Gazette dated the 12th March 1941.

2. A draft notification for applying the said Act under section 92(1) of the Government of India Act 1935 to the partially excluded areas in the province of Bombay is sent herewith.

For Secretary to Government.

U.B. to P.& S.D., No. 2326 dated the 15th March 1941

S.C.
26th April 1956.

Notification

Political and Services Department

Bombay Castle, 1941.

No. .- In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the Bombay Local Authorities Census Expense Contribution Act, 1941, (Bom.II of 1941) shall apply to the partially excluded areas in the Province of Bombay.

By order of the Governor of Bombay.

Secretary to Government.